

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DANNY P.,)
Plaintiff,)
)
v.)
)
MARTIN O'MALLEY, Commissioner)
of Social Security,)
Defendant.)
)
)
NICHOLAS B.,)
Plaintiff,)
v.)
)
MARTIN O'MALLEY, Commissioner)
of Social Security,)
Defendant.)
)

ORDER

Before the Court in both cases captioned above are Plaintiffs' Motions for Attorney Fees. ECF No. 17 in *Danny P.*; ECF No. 23 in *Nicolas B.* at 17. The matters were referred to the Magistrate Judge for a Report and Recommendation (R&R). The Magistrate Judge found in both cases that the "timesheet presented here is not a reliable indicator of actual attorney time expended." ECF No. 23 in *Danny P.* at 2; ECF No. 23 in *Nicolas B.* at 2. In his objections to the R&R, the Plaintiffs concede, after months of denying it and filing a document with the Court that said the Commissioner's accusations were inaccurate,¹ that the timesheets submitted

¹ ECF No. 22 in *Danny P.* at 2-3.

contained clerical errors and other clear errors. ECF No. 25 in Danny P. at 1-2; ECF No. 25 in Nicolas B. at 1-2.

Plaintiffs' counsel argues that these errors in its submission were excusable clerical errors, and that they do not rise to the statutory requirement of "special circumstances" to deny his attorney fees.

There are two major problems with Plaintiffs' counsel argument. The first is that he was not denied attorneys' fees because of "special circumstances," rather he was denied attorneys' fees because the proof of attorneys' fees that he submitted failed to support his claims, and therefore he did not meet his burden of proof. Second, to claim that this was a mere clerical error, disregards the Magistrate Judge's findings that similar unsupported fee petitions were admitted in several other cases—including the same errors.

Because Plaintiffs' counsel has failed to prove his request for attorneys' fees with credible evidence, the Court accepts the R&R's,² and DENIES both Motions for Attorneys' Fees for the reason stated therein. ECF No. 17.

IT IS SO ORDERED.

s/John J. McConnell, Jr.

John J. McConnell, Jr.
Chief Judge
United States District Court

April 8, 2024

² The Magistrate Judge incorporated his fellow Magistrate Judge's R&R in the case of *Eduardo V. v. O'Malley*, No. 23-11-WES, 2024 WL 726213 (D.R.I. Feb. 21, 2024). This Court does as well.